

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7730 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MULJIBHAI UKABHAI BAMANIA

Versus

COMMISSIONER OF FISHERIES

Appearance:

NANAVATY ADVOCATES for Petitioner

MR KT DAVE ASSTT. GP for the Respondents.

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 22/09/98

ORAL JUDGEMENT

Rule. Mr. K.T.Dave, learned Assistant Government Pleader appearing for the respondents waives service of rule. Heard with regard to alleged nonpayment.

2. The petitioner has asserted that the first instalment of the lease amount has already been paid. The second instalment is due but the petitioner seeks

time to pay the same to the third respondent within one week from today. The petitioner also submits that the third instalment will be paid within six weeks from the payment of the second instalment. Hence in the facts and circumstances of the case, following direction is issued:

- (1) The petitioner shall pay the second instalment of 33% of the lease amount to the third respondent within one week from today.
- (2) The petitioner shall pay the third and final instalment within six weeks from the date of payment of the second instalment as directed hereinabove.
- (3) The impugned order dated 20th August, 1998 annexure "L" page 49 to the petition is hereby quashed and set aside with a direction that in case any proceedings are to be taken against the petitioner on account of alleged breach, the petitioner shall be given an opportunity of being heard in respect thereof and only after such opportunity is given order in accordance with law shall be passed by the respondent authorities. However, no action shall be taken against the petitioner for termination of the lease on the ground of nonpayment of instalments in case the instalments are paid as indicated hereinabove.

Rule is made absolute in terms indicated hereinabove with no order as to cost.

Vyas